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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of Review of  
the Emergency Alert System

EB Docket No. 04-296

**REPLY COMMENTS OF THE CITY OF ANN ARBOR, MICHIGAN**

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November 29, 2004

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Today state and local governments need every tool at their disposal to reach their citizens as quickly as possible in times of threat or emergency. State and local governments' ability to participate in the federal EAS forms an important part of their public safety efforts. State and local governments must be permitted to use the federal EAS to provide the public with timely emergency information. Even more importantly, the Commission must not take any action which would interfere with local governments' rights to require and use a similar but separate system – a local alert system (“LAS”) – to disseminate local emergency alerts. Such a separate system, which can be required as part of a cable franchise, has proved to be an invaluable tool for local governments. Any changes in the federal rules should preserve both options for local communities.

As the City showed in its initial comments, local communities such as the City have effectively used the federal EAS or local alert systems to transmit emergency alerts. In fact, since the federal EAS has been instituted it has been employed most often to disseminate warnings of local, state, and regional emergencies, events or threats rather than national threats or emergencies. *See, e.g., NPRM ¶ 24* (system has never issued a Presidential alert).

A few commenters in the initial round raised concerns that permitting local governments mandatory access to the federal EAS would somehow inundate subscribers with unnecessary or irrelevant alerts. *See, e.g.*, Comments of National Cable & Telecommunications Association, In the Matter of Review of the Emergency Alert System, EB Docket No. 04-296 at p. 9, filed October 29, 2004 (“NCTA Comments”); Comments of Cox Broadcasting, In the Matter of Review of the Emergency Alert System, EB Docket No. 04-296 at p. 6, filed October 29, 2004 (“Cox Comments”); Comments of the Main State Emergency Communications Committee, In the Matter of Review of the Emergency Alert System, EB Docket No. 04-296 p. 3, filed October 29, 2004. However, there is no evidence to suggest that this has happened, or is likely to happen in the future. Nor do cable operators allege that in the past they have had to filter or screen local government alerts to prevent unnecessary or irrelevant alerts. On the contrary, the record to date indicates that on the whole local governments have used the system properly. The City’s own practice, as discussed in the City’s initial comments, exemplifies such proper use.

The National Cable & Telecommunications Association (“NCTA”) states in its initial comments that the individual emergency alert obligations to which cable operators are subject under franchise agreements have “adversely affected the overall effectiveness of the system” and that LAS requirements “have caused some operators to opt out of EAS that the state and local level.” However, NCTA has failed to provide any concrete examples to support its statement. *See* NCTA Comments at pp. 4-5.<sup>1</sup> In fact, despite the fact that this dual system of

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<sup>1</sup> Cox Broadcasting, Inc., also suggests that “[t]he current absence of clear guidelines and responsibilities among the first activators of the EAS causes significant problems.” Cox Comments at pp. 3-4. However, like NCTA, Cox fails to provide any concrete examples to support this statement.

local requirements has been in place for many years, NCTA appears to provide only hypothetical examples of how such a system might impact federal EAS.

Some commenters, again including NCTA, suggest a system of “uniform” local emergency alert requirements – *i.e.*, no LAS and a set of uniform rules on local permissive participation in the federal EAS. But such rules would not meet the needs of local governments. While permitting local governments to establish different LAS requirements in different communities does upset the absolute cookie-cutter uniformity desired by NCTA, these local variations serve a purpose: to ensure that emergency alert arrangements meet the unique needs of particular communities. As the City pointed out in its Initial Comments, different localities can have different needs regarding not only the types of emergencies but also the means for disseminating information. Comments of the City of Ann Arbor, In the Matter of Review of the Emergency Alert System, EB Docket No. 04-296 at pp. 5-6, filed October 29, 2004. Local needs also differ depending on commuting patterns in different communities, which affect the range of people that may need to receive certain kinds of alerts. In addition, as at least one commenter pointed out in the initial comments, the FCC lacks the statutory authority to preempt cable franchise-based emergency alert obligations. *See* Comments of Municipalities and Municipal Organizations Consisting of: National Association of Telecommunications Officers and Advisers *et al.*, In the Matter of Review of the Emergency Alert System, EB Docket No. 04-296 at pp. 9-14, dated October 29, 2004.

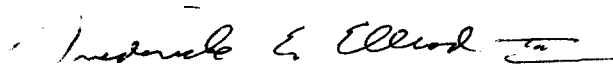
Under our federal system, local governments are responsible for safeguarding the public health, safety and welfare of local communities. To exercise this responsibility effectively, they must have clear lines of communication with the public. Emergency alert

systems form a key means of communication with the public. Thus, local government access to EAS and LAS must be preserved.

### CONCLUSION

For the above reasons, changes in the EAS rules should respect the role of state and local governments in emergency management and public information.

Respectfully submitted,



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